



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

(H)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

08/934,254 09/19/97 THOMAS

T '8383ZYXWVU

HM22/0326

LEOPOLD PRESSER
SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

EXAMINER

MCCELWAIN, E

ART UNIT

PAPER NUMBER

1649

6

DATE MAILED: 03/26/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/934,254

Applicant(s)
Thomas

Examiner
Elizabeth McElwain

Group Art Unit
1649



☒ Responsive to communication(s) filed on Feb 2, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 0 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-46 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-46 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-35 drawn to a delta-6 desaturase gene, plants transformed therewith, and a method of producing a transformed plant with increased GLA by transforming plants with said gene, classified in class 800, subclass 298, for example.
- II. Claims 36-37 drawn to a method of producing a transformed plant with increased GLA by transforming plants with a delta-6 desaturase gene and a delta-12 desaturase gene, classified in class 800, subclass 281, for example.
- III. Claims 38-46, drawn to a method of inducing production of octadecatetreonic acid, classified in class 800, subclass 278, for example.

The inventions are distinct, each from the other because:

The inventions of Groups I-III are distinct methods and products given that each method requires different method steps and different components, and each results in the production and isolation of chemically and structurally distinct products. Thus the inventions of Groups I-III are each capable of being separately made, independently used and the patentability of one would not render the other obvious or unpatentable.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, their recognized divergent subject matter, and the requirement for different areas of search, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth F. McElwain whose telephone number is (703) 308-1794. The examiner can normally be reached on Tuesday through Friday from 7:30 AM to 5:00 PM. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith, can be reached at (703) 308-3909. The fax phone number for this Group is (703) 308-4242. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

March 23, 1999

ELIZABETH F. McELWAIN
PRIMARY EXAMINER
GROUP 1800

